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CLERK'S OFFICE

APR 19 2004 P 1:15

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WORCESTER DIVISION

MAXIMUM SEPARATION SYSTEMS, INC., a
Canadian Corporation, and RICHARD H.
CHILIBECK, an individual,

Plaintiffs,

v.

SOLMETEX, INC., a Delaware corporation,

Defendant.

Cause No. C04-0324-FDB

Judge: Gorton

**AFFIDAVIT OF RICHARD CHILIBECK IN OPPOSITION TO MOTION TO
CONSOLIDATE**

Richard H. Chilibeck declares:

1. I am a practicing dentist who resides and maintains an office in Victoria, B.C., Canada. I am a Canadian citizen. All facts set forth in my declaration are personally known to me and I am competent to be a witness in this litigation.
2. I am a Director of Maximum Separation Systems, Inc. (**MSS**), and the inventor of the amalgam separator technology that is the subject matter of this litigation. As such, I am knowledgeable about the affairs of our company and its disputes with Solmetex, Inc. (**Solmetex**).

3. Maximum Separation Systems, Inc. is a small Canadian manufacturing company that is located on Vancouver Island in British Columbia, Canada. The company is closely held and not traded on any stock exchanges. MSS does not have any other business offices.

4. The company was formed in 1999 to exploit an invention by me to remove amalgam and other materials from the waste water in dental offices.

5. MSS holds assignments to my patents in the United Kingdom, Canada and United States, namely: United Kingdom Patent No. GB2358594 issued February 27, 2002, Canadian Patent No. 2,335,586, issued December 3, 2002; U.S. Patent No. 6,592,754, issued July 15, 2003 and U.S. Patent No. 6,692,636, issued February 17, 2004 (*'636 patent*).

6. At the time the '636 patent issued, the assignment to the company had not been recorded with the United States Patent and Trademark Office and, therefore, I was the owner of record of the U.S. patent when it issued. I am a party to this litigation as the owner of the U.S. Patent when it issued.

7. MSS also holds an assignment to a continuation-in-part application that is pending in the United States Patent and Trademark Office. Our Canadian and U.S. patents were prosecuted by our Canadian patent counsel, Robert H. Barrigar, Esq., of Barrigar Intellectual Property Group, in Victoria, British Columbia, Canada.

8. MSS is a relatively newly formed company and has not made significant inroads in the United States except for the state of Washington. MSS has sold approximately 30 units of its separator systems in the state of Washington and has four dealers servicing that state. Washington is the largest area of our business in the United States. We have had a continual presence in that state since we began selling our separators.

9. Our website is located at <http://www.amalgamseparators.com/index.html>.

Washington was the first state outside of Canada in which MSS began a selling effort for its separator system. MSS has advertised, exhibited in and attended trade shows in the state of Washington and uses facilities in Custer, WA for freight distribution in the United States.

10. By way of example, since it began selling its amalgam separator, MSS has only made 3 sales in the East Coast area of the United States, one in 2002 and two in 2003. We have had no sales in Zone 3 in 2004. Zone 3 comprises the states of Michigan, Illinois, Ohio, West Virginia, Pennsylvania, New York, Vermont, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia. A schedule of our total until sales, by year is attached hereto as Exhibit A. Our sales in Washington State are approximately 40 per cent of our total sales in the United States. Our company is actively involved in the state of Washington. The fact that we are not a large company does not negate the fact that the state of Washington is the most significant source of our business in the United States.

11. While MSS has a continuing and purposeful business presence in the state of Washington, it has not had and does not have any presence in the state of Massachusetts.

12. I have no business, personal matters, or other contacts in the state of Massachusetts.

13. While MSS has dealers and sales in the greater metropolitan area of Seattle, Washington, it has made no sales in Massachusetts. MSS does not have contractually obliged dealers or manufacture representatives in Massachusetts. The only business contact that our company has in Massachusetts are the letters that we have sent to Solmetex, Inc. advising it of

our Canadian and U.S. patents and our belief that its Hg5 and Hg5 HV amalgam separator line of products infringes my patents. Copies of these letters are attached hereto as a part of Exhibit B.

14. Solmetex is a much larger and older company than MSS. It was formed in 1994 and conducts business in both the United States and Canada. By its own advertising, Solmetex has 10 dealers in the state of Washington, as shown in Exhibit C, attached hereto, which is a copy of its website page for Washington. <http://www.solmetex.com/dealerlocator.html> .

15. The fact of our presence in the State of Washington is evidenced by the Public Disclosure Act Information Request made by Solmetex, Inc. in February of this year to King County Wastewater Treatment Division requesting a copy of that department's ISO test records for our amalgam separators, attached hereto as Exhibit D.

16. When the '636 patent issued on February 17, 2004, MSS filed a lawsuit in the Western District of Washington, Civil Cause No. C04-0324FDB. At the same time, Solmetex filed suit against us in Massachusetts, Civil Cause No. 04-40024. The only real difference in timing was the difference between time zones.

17. Solmetex is seeking to force MSS to litigate in Massachusetts, a state with which we have no business connections. The only purpose that can be served by Solmetex trying to sue MSS in Massachusetts is to make litigation so expensive for MSS that it will not have the ability to enforce its patents. Solmetex is seeking to force MSS to compel compliance with rules of court everywhere. For example, attached hereto as Exhibit F is a copy of a letter dated March 15, 2004 that our Canadian law firm has had to send to Solmetex's Canadian attorneys to get compliance with our own Federal Court disclosure rules.

18. All of MSS's records are in British Columbia, Canada and all of our employees and witnesses are from the West Coast of the United States or Western Canada. Both this lawsuit and the Canadian litigation will require participation in Seattle or Vancouver, British Columbia, Canada. Litigating one case in Massachusetts does not appear to us to have any efficiency for Solmetex. Even its patent lawyers are from Ohio, not Massachusetts.

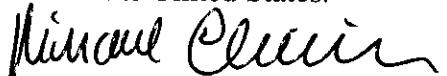
19. MSS did not undertake litigation with Solmetex lightly. In preparation for litigation with Solmetex in Canada (which only occurred after Solmetex rejected our offer to license our technology to it), we have prepared a claims chart for Claim 94 of our Canadian Patent, Canadian Patent No. 2,335,586. Claim 94 is the same as claim 38 of the '636 Patent. The claim chart evidences that the Solmetex Hg5 unit (and, thusly, Hg5 HV unit as well) literally infringe our Canadian and U.S. patents. Our Claim Chart discloses:

Claim 94 and 38	
Apparatus for separating particles from liquid effluent containing such particles, the liquid effluent flowing from an effluent source to an effluent destination, the apparatus comprising:	Yes the Hg5 and Hg5 HV are apparatus for separating particles from liquid effluent.
(a) a surge tank for receiving the liquid effluent, the surge tank having a surge tank inlet for connecting to the effluent source and a surge tank effluent outlet;	The air/water separator is the surge tank and receives liquid effluent. It has an inlet for connecting to the effluent source (the dental office system conduits) and it has an effluent outlet (to the coupler).
(b) a sedimentary deposit tank having a sedimentary deposit tank inlet connected to the surge tank effluent outlet for receiving effluent from the surge tank, and	There is a settlement chamber that has an inlet (from the coupler). The inlet is connected to the air/water separator outlet via the coupler. The chamber has

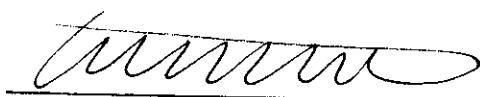
<p>a sedimentary deposit tank outlet for connecting to the effluent destination, and within which sedimentary deposit tank the particles settle out from the liquid effluent, the portion of the particles that settle out being inversely related to the flow rate of the liquid effluent through the sedimentary deposit tank, in that the higher the flow rate the smaller the portion of the particles that settle out;</p>	<p>an outlet (via the coupler) to the outlet conduit. Particles settle out in the settlement chamber.</p> <p>The settling is necessarily an inverse function of the flow rate.</p>
<p>(c) means for receiving and applying a pressure differential between the surge tank and the sedimentary deposit tank outlet so as to cause the surge tank interior to be at a higher pressure than the sedimentary deposit tank outlet; and</p>	<p>The means for receiving and applying the pressure differential is intended to be the dental office vacuum system into which the Hg5 is mounted in line.</p> <p>The vacuum system is only an indirect and partial reason for the pressure differential. The pressure differentials are further the result of differing dimensions of the chambers, assuming a dynamic flow is induced by the vacuum system.</p> <p>There is a pressure differential effective between the top of the air/water separator and the settlement chamber outlet, since both are in line with the vacuum system so that dynamic fluid flow is induced, and there is in fact a difference in dimensions between the air/water separator and the settlement chamber.</p> <p>The claim and patent do not specify the magnitude of the pressure differential. However, the Hg5 will have a pressure differential that is roughly equivalent in magnitude to the system disclosed in the preferred embodiment of the '586 patent. In both cases, the surge tank sits atop the deposit tank and gravity therefore plays a role in both cases. In both cases, the system is mounted in line with the dental office vacuum system and the general configuration of</p>

	<p>elements and conduits is similar. In both cases, there is some form of air bypass that will divert the effect of suction away from the liquid effluent. The patent specifies that the magnitude of the pressure differential is to be empirically determined by each user and no objective measure is provided.</p>
<p>(d) means for inhibiting the flow of liquid effluent in its passage from the inlet of the surge tank through to the effluent destination thereby to control the flow rate of effluent through the sedimentary deposit tank;</p>	<p>The means for inhibiting the flow can include the sizing of the outlet from the settlement chamber. In the Hg5, the air/water separator outlet to the settlement chamber is $\frac{1}{2}$". This is considerably smaller (more constricted) than the inlet to the air/water separator that is visibly much larger. This will therefore inhibit the flow through the air/water separator.</p>
<p>wherein when the surge tank contains liquid effluent and the pressure differential is applied between the surge tank and the sedimentary deposit tank outlet, the pressure differential and flow inhibiting means cause the liquid effluent to flow at a slow flow rate through the sedimentary deposit tank, the slow flow rate facilitating settling of the particles within the sedimentary deposit tank.</p>	<p>The air/water separator contains liquid effluent. The pressure differential is applied between the separator and the outlet of the settlement chamber, as both are in line with the vacuum system and there are different dimensions (volumes) for each. Given that the Hg5 has a larger air volume in the air/water separator than in the settlement chamber, the resulting pressure differential promotes flow from the separator to the chamber as this limitation suggests.</p>

This affidavit is signed by me under oath and is subject to the laws of perjury of Canada and of the United States.



Richard H. Chilibeck



Subscribed and sworn to before me this 14 day of April, 2004:

WILLIAM T. STEEPER

Barrister & Solicitor

#203 - 3347 Oak Street

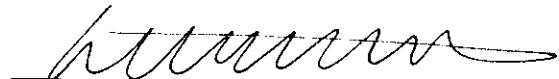
Victoria, British Columbia

Canada V8X 1R2

Bus: (250) 475-3031 Fax: (250) 475-2997

Commission for Life

Notary Public for Prov of BC



Notary Public for the province of British Columbia

Residing at: _____

My commission expires: for life

WILLIAM T. STEEPER

F:\M\MS 2 - Maximum Separation Systems Inc\MA Litigation\MA Pleadings\Affidavit of Richard Chilibeck RE CONSOLIDATION.doc

Barrister & Solicitor

#203 - 3347 Oak Street

Victoria, British Columbia

Canada V8X 1R2

Bus: (250) 475-3031 Fax: (250) 475-2997

MSS Sales Figures

		1999 to 33 for Model MSS 1000, MSS 2000, Se			Tanks			
	Model 1000 # sold	Model 2000 # sold	Avg Price	Total Sales \$	Total Sales \$	Settle Tanks # sold	Avg Price	Total Sales \$
Year 1999								
Canada	0	0.00	0.00	0.00	2	1,500.00	3,000.00	0
USA Zone 1	0	0.00	0.00	0.00	0	1,500.00	0.00	0.00
USA Zone 2	0	0.00	0.00	0.00	0	1,500.00	0.00	0.00
USA Zone 3	0	0.00	0.00	0.00	0	1,500.00	0.00	0.00
Total				0.00	0	1,500.00	0.00	0.00
Sales Reports Total Sales				3,000.00		3,000.00		0.00
Financial Statement Sales				3,000.00		3,000.00		0.00

		Year 2000			Model 1000 # sold			Model 2000 # sold			Avg Price			Total Sales \$			Settle Tanks # sold			Avg Price			Total Sales \$		
		Model 1000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$			
Canada	122	1,130.00		137,860.00			229	1,269.00		290,601.00			255,080.00			2	150.00		300.00			300.00			
USA Zone 1	0	1,130.00		0.00			0			0.00			0.00			0			0.00			0.00			
USA Zone 2	0	1,130.00		0.00			0			0.00			0.00			0			0.00			0.00			
USA Zone 3	0	1,130.00		0.00			0			0.00			0.00			0			0.00			0.00			
Total				0.00																			300.00		
Sales Reports Total Sales				285,380.00																					
Financial Statement Sales				288,000.00	(Sales \$ difference on financial statements from parts sales)																				

		Year 2001			Model 1000 # sold			Model 2000 # sold			Avg Price			Total Sales \$			Settle Tanks # sold			Avg Price			Total Sales \$		
		Model 1000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$			
Canada	122	1,130.00		137,860.00			229	1,269.00		290,601.00			255,080.00			71	154.00		10,934.00			10,934.00			
USA Zone 1	0	1,130.00		0.00			0			0.00			0.00			0			0.00			0.00			
USA Zone 2	0	1,130.00		0.00			0			0.00			0.00			0			0.00			0.00			
USA Zone 3	0	1,130.00		0.00			0			0.00			0.00			0			0.00			0.00			
Total				0.00																			10,934.00		
Sales Reports Total Sales				439,395.00																					
Financial Statement Sales				446,000.00	(Sales \$ difference on financial statements from waste contract and parts sales)																				

		Year 2002			Model 1000 # sold			Model 2000 # sold			Avg Price			Total Sales \$			Settle Tanks # sold			Avg Price			Total Sales \$		
		Model 1000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$			
Canada	144	1,036.00		149,139.00			156	1,244.00		194,015.00			194,015.00			140	147.00		20,597.00			20,597.00			
USA Zone 1	29	1,260.00		38,478.00			16	1,355.00		21,610.00			21,610.00			1	175.00		175.00			175.00			
USA Zone 2	8	1,260.00		8,337.00			16	1,355.00		21,768.00			21,768.00			0	0.00		0.00			0.00			
USA Zone 3	1	1,260.00		1,055.00			0	1,355.00		0.00			0.00			0	0.00		0.00			0.00			
Total				197,099.00												237,393.00							20,772.00		
Sales Reports Total Sales				455,174.00												460,000.00	(Sales \$ difference on financial statements from parts sales and Europe sales)								
Financial Statement Sales				460,000.00																					

		Year 2003			Model 1000 # sold			Model 2000 # sold			Avg Price			Total Sales \$			Settle Tanks # sold			Avg Price			Total Sales \$		
		Model 1000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$	Model 2000 #	Avg Price	Total Sales \$			
Canada	121	968.00		117,127.00			52	1,403.00		72,956.00			277	161.00		44,795.00							44,795.00		
USA Zone 1	8	889.00		7,720.00			2	1,451.00		2,093.00			12	173.00		2,220.00							2,220.00		
USA Zone 2	14	889.00		10,978.00			8	1,451.00		12,425.00			7	173.00		1,063.00							1,063.00		
USA Zone 3	2	889.00		2,637.00			0	0.00		0.00			0	0.00		0.00							0.00		
Total				138,462.00												87,474.00							48,078.00		
Sales Reports Total Sales				274,014.00												275,162.00									
Financial Statement Sales				32,253.00													32,253.00							32,253.00	

MESSAGE CONFIRMATION

JAN-07-2003 09:56PM TUE

FAX NUMBER: 250 727 2180
NAME : CHILIBECK HOME

NAME/NUMBER : 19054750141
 PAGE : 001
 START TIME : JAN-07-2003 07:44PM TUE
 ELAPSED TIME : 01'10"
 MODE : G3 STD ECM
 RESULTS : [O.K.]



January 6, 2003

President
 Solmetex Inc
 50 Bearfoot Road
 Suite 2
 Northborough, Ma
 01532
 USA

Sent via Fax, original to follow by mail
 Dear President,

RE: Canadian Patent # 2,335,586 infringement of Solmetex dental amalgam separator

Please be advised Maximum Separation Systems (MSS) holds a Canadian Patent #2,335,586 titled APPARATUS AND PROCESS FOR REMOVING METALLIC PARTICLES FROM EFFLUENT LIQUID WASTE.

This patent can be found on the Internet site:
http://patents1.ic.gc.ca/details?patent_number=2335586&language=EN_CA

Maximum Separation Systems Inc views that your company and all of your companies dealers by importing, distributing and selling the product Solmetex Hg5 has been infringing on our patent in Canada since December 3 2002.

Please cease and desist the importing, distribution and sales of this product in Canada immediately.

If you desire to continue this aspect of your business, there may be an opportunity to license our technology.
 Please contact MSS within seven days in order to prepare the proper licensing documents before any more of your products are sold in Canada.

Yours truly,

Dr. Richard Chilibeck



September 12 2003

Mr. Owen Boyd
 Mr. Nick Mozzicato
 Solmetex
 50 Bearfoot Road
 Suite 2
 Northborough, MA 01532
 USA

1 page sent via Fax 508-393-1795

Dear Mr. Boyd and Mr. Mozzicato,

Re: Maximum Separation Systems Inc (MSS) and Solmetex sent via fax, original to follow by mail

I have had a chance to discuss the alleged patent infringement by your company with the directors of MSS and they have agreed to provide for a small window of opportunity to see if I can present to them an acceptable option for settlement between our respective companies before any litigation commences.

I understand that you have a copy of the September 10 2003 correspondence between our respective legal council regarding the alleged Canadian patent infringement.

For your interest, MSS has a published USA patent and has paid for the issuance fees for its second USA patent. This second USA patent will be published in the near future. I can send you the pertinent claims of this second patent if you are interested and if there is an opportunity for settlement.

As the market place is changing rapidly as well as the alliances in the manufacturing/dealer sector (for example the recent Hygienitec/Arcona-Schein Cooperation) time is of the essence.

I propose that a meeting be set up to discuss and further develop a settlement that I believe would be acceptable to the officers and shareholders of MSS and this settlement could be in the form of a combination or one of the two options presented below.

1. A new entity, a USA public trading company be acquired or formed by Solmetex, and 50% of the share stock would be allocated to Solmetex and 50% of the share stock would be allocated to MSS in return for entitlement to all of the property, product, inventory, technology, know how and intellectual property of MSS and Solmetex.
2. MSS license all of its property, product, inventory, technology, know how, intellectual property, exclusively to Solmetex worldwide and in return, Solmetex would;
 - a. Pay a fee to MSS of \$350,000.00 US
 - b. Pay Royalties to MSS equal to 10% of all of the products sold for the length of the patents.

I will call you early next week to discuss this matter further.

Richard Chilibeck

Richard Chilibeck



MAXIMUM SEPARATION SYSTEMS INC.

6588 Sooke Road, Sooke BC, V0S 1N0, CANADA TEL: (250) 642-1787 FAX: (250) 642-1393
 WEB: www.amalgamseparators.com E-mail: rchilibeck@amalgamseparators.com



October 31, 2003

Mr. Owen Boyd
CEO
Mr. Nick Mozzicato
President
Solmetex
50 Bearfoot Road
Suite 2
Northborough MA 01532

1 page Sent Via Facsimile 508-393-1795

Dear Mr. Boyd and Mozzicato,

RE: Patent infringement by Solmetex of Canadian Patent No.: 2,335,586.

As Mr. Boyd has not followed up with me as he indicated that he would in his September 29 2003 letter and I have not had any kind of written response to my subsequent letter of September 29 2003. I am therefore notifying you that MSS has started legal action in Canada for Patent Infringement of Canadian Patent No.: 2,335,586.

All discussions and any offers made between us for the settlement of your Companies Infringement are now completely and fully revoked.

Yours truly,

Richard Chilibeck



MAXIMUM SEPARATION SYSTEMS INC.

6588 Sooke Road, Sooke BC, V0S 1N0, CANADA TEL: (250) 642-1787 FAX: (250) 642-1393
WEB: www.amalgamseparators.com

Washington	
Arnold Dental Supply, Co. 19231 36th Ave. W. Suite P Lynnwood, WA 98036 425-712-8786	J B Dental Supply Co. 18650 68th Avenue South Kent, WA 98032 206-575-9419
Burkhart Dental Supply, Co. 15031 Montgomery, Suite 6 Spokane, WA 99206 509-928-7474	Morgan Dental Sales 5209 97th Avenue Ct.W. Tacoma, WA 98467 253-565-3432
Burkhart Dental Supply, Co. 2804 W. Washington, Suite 2 Yakima, WA 98903 509-248-5441	Patterson Dental Supply 8620 154th Avenue, N.E. Redmond, WA 98052 425-566-1715
Gator Dental Repair Service 7576 Skagit View Drive Concrete, WA 98237 360-770-3502	Patterson Dental Supply 417 East Pacific Avenue Spokane, WA 99202 509-838-8581
Island Dental Co., Inc. 2004B 48th Avenue Ct. Fife, WA 98424 800-860-3930	Sullivan Schein Dental 5005 Pacific Highway E., Suite 12 Fife, WA 98424 253-896-5050

EXHIBIT C



King County
Wastewater Treatment Division
Industrial Waste Program
Department of Natural Resources and Parks
130 Nickerson Street, Suite 200
Seattle, WA 98109-1658
206-263-3000
206-263-3001 Fax

RECEIVED

MAR 04 2004

February 23, 2004

Christine Brownlie
Maximum Separation Systems, Inc.
301-1779 Sean Heights
Victoria, BC V8M 1X6
Canada

STRATTON BALLEW PLLC
SEATTLE, WASHINGTON

Dear Ms. Brownlie:

It is the Industrial Waste Program's policy to notify companies when the files we maintain concerning their equipment or operations are accessed via a PUBLIC DISCLOSURE ACT INFORMATION REQUEST. On February 5, 2004, Al Dube, representing SomateX, Inc. of Northborough, Massachusetts, requested a copy of the ISO test records for Maximum Separations' MSS 1000 and MSS 2000.

If you have any questions regarding this information request please contact Patricia Magnuson at (206) 263-3021.

Very truly yours,

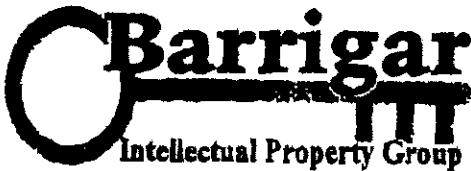
Douglas A. Hilderbrand

Douglas A. Hilderbrand
Program Officer
Industrial Waste Program

cc: **Patricia Magnuson, Industrial Waste Program**
Cynthia Hernandez, King County

Dahdah

Exhibit D



BARRISTERS & SOLICITORS, REGISTERED PATENT AND TRADEMARK AGENTS
SUITE 290, 1675 DOUGLAS STREET, VICTORIA, BC CANADA V8W 2G5
TELEPHONE (250) 389-0387 TELEFAX (250) 389-2659
email@barrigar.com WEBSITE: www.barrigar.com

ROBERT H. BARRIGAR, Q.C.
TED B. URBANEK
MICHAEL D. COOPER
JENNIFER E. R. McGRAW
IRENE M. WALLER, PH. D.

ROBERT H. FOX, B.Sc. B.Ed., FPTJ.C.
(Patent and Trademark Agent)
Technical Consultant
ANNE M. FLANAGAN, PH. D.

OUR FILE NO. MSS01/2609 CA

COPY

15 March 2004

Kenneth E. Sharpe, Esq.
Terrance J. McManus, Esq.
Ogilvy Renault
Suite 1600, 45 O'Connor Street
Ottawa, Ontario K1P 1A4

By telefax, original by mail

Dear Mr. Sharpe and Mr. McManus:

Re: Your File No.: 0101111-001; Federal Court Action No. T-1787-03
MAXIMUM SEPARATION SYSTEMS INC. v. SOLMETEX, INC.; GAREX INDUSTRIES LTD, and E.G. PLUMBING CO. LTD.

We note that we have not yet received the Defendants' Affidavits of Documents. As you know, pursuant to Federal Court Rule 223, the Defendants should have served the Plaintiff with their Affidavits of Documents within 30 days after the close of pleadings, that is, on or before 9 March. Kindly provide the Defendants' Affidavits of Documents no later than the end of this week.

We wish to make arrangements for the examination of an officer of SolmeteX, Inc. We suggest you allow 2 days for the initial examination and request that the start date for the examination be a date in the range of 14 April to 12 May (excepting 28-30 April). Please provide us by return with the name of the SolmeteX officer to be examined; the location in Canada where he or she will be made available; and proposed dates for the examination.

You will of course ensure that the SolmeteX officer to be examined is fully familiar with the matters in issue and the documents produced. It will probably be helpful if the officer selected is an individual who has participated in this case and in the precursor events to the litigation.

EXHIBIT F

Dr. Richard Chilibeck can be made available for examination in Victoria on any weekday from 14 to 27 April, inclusive. Please let us know when during this period you wish to examine Dr. Chilibeck. He is available to testify both in his personal capacity and on behalf of the Plaintiff.

Yours truly,

NOTICE OF AVAILABILITY
BARRIGAR INTELLECTUAL
PROPERTY LAW

Michael D. Cooper

MDC:lld

cc Dr. R. Chilibeck

Y:\WSS01\2609 CA\Adversary\Sharpe McManus 040315.wpd